

**INMATE COMPUTER CODING TRAINING**  
**COR22-0379NH**

**THIS CONTRACT** is entered into by and between the State of Montana, **Montana Department of Corrections**, (State), whose address and phone number are P.O. Box 201301, 5 S. Last Chance Gulch, Helena, MT 59620-1301, (406) 444-3930, and **Turn 2U, Inc. dba The Last Mile**, (Contractor), whose address and phone number are 548 Market St. PMB 70892, San Francisco, CA 94104, (707) 733-6453.

**1. EFFECTIVE DATE, DURATION, AND RENEWAL**

**1.1 Contract Term.** The Contract's initial term is, April 1, 2022, or upon contract execution, through March 31, 2024, unless terminated earlier as provided in this Contract. In no event is this Contract binding on State unless State's authorized representative has signed it. The legal counsel signature approving legal content of the Contract and the procurement officer signature approving the form of the Contract do not constitute an authorized signature.

**1.2 Contract Renewal.** State may renew this Contract under its then-existing terms and conditions in 1-year intervals, or any interval that is advantageous to State. This Contract, including any renewals, may not exceed a total of 10 years.

**2. SERVICES AND/OR SUPPLIES**

**2.1 Services.** Funding has been provided through the Gianforte Family Foundation for the Contractor to provide the following services: Contractor shall provide State with an educational coding program through a Learning Management System, live instruction via remote video calls and a remote help desk. Inmates, participating in the educational program shall receive asynchronous and synchronous education and support on projects and curriculum questions. The educational program includes advanced computer programming/audio engineering, verbal and written communication, presentation skills, business formation and operational education. Upon program completion, the Contractor shall provide support in the form of continuing education, career readiness, professional development, job placement, and referral to wraparound services.

**2.2 Equipment.** Contractor shall provide State with the following equipment, which State will retain ownership of, to support Contractor's classroom deployments:

**Network and General IT Equipment:**

- Palo Alto Networks PA-220 Firewall Appliance (2x)
- Power Supply for PA-220 (4x)
- 1U Rack tray for PA-220 (1x)
- Ruckus ICX-7150 48-port PoE switch (1x)
- Brocade single-mode short-range SFP optic (Installed in X2 of ICX7150-48P-4X1G)
- Brocade multi-mode long-range SFP optic (Installed in X4 of ICX7150-48P-4X1G)
- Rack ears(2) for switch Small screws(8) for each ear
- Ruckus Zoneflex R610 Wave 2 Access Point (2x)
- Cable-keeper(1) for switch
- Cage-nuts + screws(10)
- APC 1500VA Smart-UPS (Managed) (71lbs) (1x)
- APC Management Card (Installed in APC 1500VA Smart-UPS)
- Labeled Ethernet patches(10)

- Monoprice SlimRun CAT6 - 1ft Red
- Monoprice SlimRun CAT6 - 1ft Yellow
- Monoprice NEMA 5-15P to C13 18AWG 3ft (5x)
- NavePoint 12U Deluxe IT Wall mount Cabinet Enclosure with Locking Door (24-Inches Deep Black)

**AV Workstation Hardware** (Used to conduct Remote Instruction)

- Acer Chromebox - CXI3-I58GKM - 8GB/64GB
- Wireless USB Keyboard and Mouse Combo
- Yamaha Unified Communications Video Soundbar
- LG Electronics 75-Inch 4K Ultra HD Smart LED TV
- Video Secure Articulating TV Mount (Large Heavy Duty)

**Workstation Hardware** (1 per student and 1 for the classroom facilitator)

- Mac Mini SG/3.6GHZ QC/8GB/128GB-USA
- ViewSonic 27 Inch IPS 1080p Frameless LED Monitor
- AmazonBasics High-Speed 4K HDMI Cable, 6 Feet (1x)
- HIDEit MiniU VESA Mount for Mac Mini
- Macally Full-Size USB Wired Keyboard for Mac Mini
- Macally USB Wired Computer Mouse for Mac Mini
- Belkin Standard 8-Inch by 9-Inch Computer Mouse Pad (Black)
- Sony Over-Ear Portable Headphones Headset
- Logitech USB Headset H390 with Noise Cancelling Mic (Only one is sent for the classroom facilitator, students do not receive one of these)

### **3. WARRANTIES**

**3.1 Warranty for Services.** Contractor warrants that it performs all services using reasonable care and skill and according to its current description (including any completion criteria) contained in this Contract. State agrees to provide timely written notice of any failure to comply with this warranty so that Contractor can take corrective action.

**3.2 Warranty for Software.** For a period of ninety (90) days from the date of receipt of software, Contractor warrants that: (i) the unmodified software will provide the features and functions and will otherwise conform to all published documentation including on Contractor's website; and (ii) the media upon which the software is furnished will be free from defects in materials and workmanship under normal use and service.

**3.3 Warranty for Hardware.** Contractor warrants that hardware provided is free from defects in materials and workmanship and conforms to the specifications. The warranty period for provided hardware is **30 days** commencing on the date specified in a statement of work or applicable Contract. If the hardware does not function as warranted during the warranty period and Contractor is unable to either: i) make it do so; or ii) replace it with one that is at least functionally equivalent, State may return it to Contractor for a full refund.

The parties agree that the warranties set forth above do not require uninterrupted or error-free operation of hardware or services unless otherwise stated in the specifications.

These warranties are State's exclusive warranties and replace all other warranties or conditions, express or implied, including, but not limited to, the implied warranties or conditions of merchantability and fitness for a particular purpose.

#### **4. ACCESS AND RETENTION OF RECORDS**

**4.1 Access to Records.** Contractor shall provide State, Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. State may terminate this Contract under Section 14, Contract Termination, without incurring liability, for Contractor's refusal to allow access as required by this section. (§ 18-1-118, MCA.)

**4.2 Retention Period.** Contractor shall create and retain all records supporting the educational coding program under Section 2, Services and/or Supplies, for a period of eight (8) years after either the completion date of this Contract or termination of the Contract.

#### **5. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING**

Contractor may not assign, transfer, or subcontract any portion of this Contract without State's prior written consent. (§ 18-4-141, MCA) Contractor is responsible to State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and State under this Contract.

#### **6. DEFENSE, INDEMNIFICATION / HOLD HARMLESS**

Contractor shall protect, defend, indemnify, and save harmless the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims, liabilities, demands, causes of action, judgments, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Contractor's employees and agents, its subcontractors, its subcontractor's employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

Contractor waives all claims, demands, causes of action, and recourse against the State, including claims of contribution or indemnity, arising in favor of Contractor on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

#### **7. LIMITATION OF LIABILITY**

Contractor's liability for Contract damages is limited to direct damages and further to no more than twice the Contract amount. Contractor shall not be liable for special, incidental, consequential, punitive, or indirect damages. Damages caused by injury to persons or tangible property, or related to intellectual property indemnification, are not subject to a cap on the amount or type of damages.

#### **8. REQUIRED INSURANCE**

**8.1 General Requirements.** Contractor shall maintain for the duration of this Contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**8.2 Primary Insurance.** Contractor's insurance coverage shall be primary insurance with respect to State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by State, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

**8.3 Specific Requirements for Commercial General Liability.** Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of **\$1,000,000** per occurrence and **\$2,000,000** aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

**8.4 Specific Requirements for Automobile Liability.** Contractor shall purchase and maintain coverage with split limits of **\$500,000** per person (personal injury), **\$1,000,000** per accident occurrence (personal injury), and **\$100,000** per accident occurrence (property damage), OR combined single limits of **\$1,000,000** per occurrence, to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, owned, or borrowed by Contractor.

**8.5 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by State. At the request of State either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects State, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**8.6 Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by Department of Corrections, P.O. Box 201301, 5 S. Last Chance Gulch, Helena, MT 59620-1301. *The certificates must name the State of Montana as certificate holder and Contractor shall provide copies of additional insured endorsements required by Contractor's commercial general liability and automobile liability policies.* Contractor must notify State immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. State reserves the right to require complete copies of insurance policies at all times.

**8.7 Recommended Cyber/Data Information Security Insurance.** The Contractor acknowledges responsibility for loss or unauthorized acquisition of personal information it holds such as social security numbers, credit card numbers, financial account information, or other information that uniquely identifies an individual and may be of a sensitive nature in accordance with § 2-6-1501, MCA through § 2-6-1503, MCA. In absence of insurance coverage specific to this type of coverage, Contract assumes personal liability for any such information breaches.

## **9. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for State of Montana in accordance with §§ 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire Contract term and any renewal. Upon expiration, a renewal document must be sent to Department of Corrections, P.O. Box 201301, 5 S. Last Chance Gulch, Helena, MT 59620-1301.

## **10. COMPLIANCE WITH LAWS**

Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act 42 U.S.C. § 18001 et seq. Contractor will comply with the Prison Rape Elimination Act 34 U.S.C. § 30301 et seq., the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.1.17, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. State has a zero-tolerance policy as to incidents of sexual assault/rape or sexual misconduct in its correctional facilities or premises. Contractor is referred to § 45-5-501 MCA. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with § 49-3-207, MCA, and State of Montana Executive Order No. 04-2016, Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

**10.1 Affordable Care Act.** The Affordable Care Act requires a Contractor, if Contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980H (ACA).

## **11. DISABILITY ACCOMMODATIONS**

State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

## **12. REGISTRATION WITH THE SECRETARY OF STATE**

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are domiciled in another state or country, but which are conducting activity in Montana, must determine

whether they are transacting business in Montana in accordance with §§ 35-14-1505, 35-8-1001, and 35-12-1309 MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. §§ 35-8-1001, 35-12-1302, and 35-14-1502, MCA. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

### **13. CONTRACT OVERSIGHT**

**13.1 CIO Oversight.** The Chief Information Officer (CIO) for the State of Montana, or designee, may perform contract oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur within the performance of contract obligations. The CIO may require the issuance of a right to assurance or may issue a stop work order.

**13.2 Right to Assurance.** If State, in good faith, has reason to believe that Contractor does not intend to, is unable to, or has refused to perform or continue performing all material obligations under this Contract, State may demand in writing that Contractor give a written assurance of intent to perform. Contractor's failure to provide written assurance within the number of days specified in the demand (in no event less than five business days may, at State's option, be the basis for terminating this Contract and pursuing the rights and remedies available under this Contract or law.

**13.3 Stop Work Order.** State may, at any time, by written order to Contractor require Contractor to stop any or all parts of the work required by this Contract for the period of days indicated by State after the order is delivered to Contractor. The order must be specifically identified as a stop work order issued under this clause. Upon receipt of the order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, Contractor shall resume work. The State Project Manager shall make the necessary adjustment in the delivery schedule or contract price, or both, and this Contract shall be amended in writing accordingly.

**13.4 System Security.** Contractor shall ensure systems delivered under this Contract are adequately secure. For purposes of this Contract, adequate security is defined to require compliance with federal and State of Montana security requirements and to ensure freedom from those conditions that may impair the State's use of its data and information technology or permit unauthorized access to the State's data or information technology. The State of Montana has established control standards and policies that align with the NIST Cybersecurity Framework. The latest revision of NIST SP 800-53 is used for control adherence evaluation established after developing a security categorization utilizing FIPS PUB 199. Thus, Contractor shall provide reasonable proof, through independent audit reports, that the system specified under this Contract meets or exceeds federal and State of Montana security requirements to ensure adequate security and privacy, confidentiality, integrity, and availability of the State's data and information technology. Annual assurance statements shall be delivered to the Contract Liaison. Annual assurance statements must contain a detailed accounting of the security controls provided and must be in the form of a NIST Security Assessment Report or FedRAMP Security Assessment Report.

**13.5 Physical Access.** Contractor represents and warrants that it has established and during the Term it will at all times enforce:

- (a) Physical protection mechanisms for all information assets and information technology to ensure such assets and technology are stored and protected in appropriate data centers;
- (b) Appropriate facility entry controls limiting physical access to systems that store or process data;
- (c) Processes to ensure access to facilities is monitored and is restricted on a “need to know” basis; and
- (d) Controls to physically secure all Confidential Information and to properly destroy such information when it is no longer needed.

**13.6 Prohibited Activities and Spoofing.** Licensor and its officers, employees, agents, subcontractors, and affiliated users, shall not violate or attempt to violate the security of the State’s network or interfere or attempt to interfere with the State’s systems, networks, authentication measures, servers or equipment, or with the use of or access to the State’s network by any other user. Such prohibited activity includes (i) accessing or logging into a server where access is not authorized; (ii) unauthorized probing, scanning, or testing the security or vulnerability of the State’s network or other systems; and (iii) attempting to portray itself as the State or an affiliate of the State or otherwise attempting to gain access, without authorization, via the State’s network or systems to any account or information technology resource not belonging to Licensor or its officers, employees, agents, subcontractors, and affiliated users (“Spoofing”). Licensor shall not perform unauthorized Spoofing or scanning of any kind, including user account identity. Systems shall not Spoof the mt.gov domain or engage in Email Spoofing. Email Spoofing is the creation of email messages with a forged sender address. For example, Email Spoofing includes creating or sending emails using the State’s domain.

## **14. CONTRACT TERMINATION**

**14.1 State Termination for Cause with Notice to Cure Requirement.** State may terminate this Contract in whole or in part for Contractor’s failure to materially perform any of the services, duties, terms, or conditions contained in this Contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than **30** days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**14.2 State Termination for Convenience.** State may, by written notice to Contractor, terminate this Contract without cause and without incurring liability to Contractor. State shall give notice of termination to Contractor at least **30** days before the effective date of termination. State shall pay Contractor only that amount, or prorated portion thereof, owed to Contractor up to the date State’s termination takes effect. This is Contractor’s sole remedy. State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

**14.3 Contractor Termination for Cause with Notice to Cure Requirement.** Contractor may terminate this Contract for State’s failure to perform any of its duties under this Contract after giving State written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than **30** days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**14.4 Reduction of Funding.** State must, by law, terminate this Contract if funds are not appropriated or otherwise made available to support State's continuation of performance of this Contract in a subsequent fiscal period. (§ 18-4-313(4), MCA). If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Contract as required by law. State shall provide Contractor the date State's termination shall take effect. State shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy. State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

**14.5 Right of Assurance.** If State, in good faith, has reason to believe that Contractor does not intend to, is unable to, or has refused to perform or continue performing all material obligations under this Contract, State may demand in writing that Contractor give a written assurance of intent to perform. Contractor's failure to provide written assurance within the number of days specified in the demand (in no event less than five business days) may, at State's option, be the basis for terminating this Contract and pursuing the rights and remedies available under this Contract or law.

**14.6 Noncompliance with Department of Administration Requirements.** The Department of Administration, under the provisions of § 2-17-514, MCA, retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Department's Plan for Information Technology, State Strategic Plan for Information Technology, or any Statewide IT policy or standard in effect as of the date of contract execution. In the event of such termination, State will pay for products and services delivered to date and any applicable termination fee specified in the statement of work or work order. Any modifications to this Contract must be mutually agreed to by the parties.

## **15. EVENT OF BREACH – REMEDIES**

**15.1 Event of Breach by Contractor.** Any one or more of the following Contractor acts or omissions constitute an event of material breach under this Contract:

- Products or services furnished fail to conform to any requirement;
- Failure to submit any report required by this Contract;
- Failure to perform any of the other terms and conditions of this Contract;
- Beginning work under this Contract without prior State approval or breaching Section 20.1, Technical or Contractual Problems, obligations; or
- Voluntary or involuntary bankruptcy or receivership.

**15.2 Event of Breach by State.** State's failure to perform any material terms or conditions of this Contract constitutes an event of breach.

**15.3 Actions in Event of Breach.** Upon Contractor's material breach, State may:

- Terminate this Contract under Section 14.1, State Termination for Cause with Notice to Cure Requirement and pursue any of its remedies under this Contract, at law, or in equity; or
- Treat this Contract as materially breached and pursue any of its remedies under this Contract, at law, or in equity.



Upon State's material breach, Contractor may:

- Terminate this Contract under Section 14.3, Contractor Termination for Cause with Notice to Cure Requirement, and pursue any of its remedies under this Contract, at law, or in equity; or
- Treat this Contract as materially breached and, except as the remedy is limited in this Contract, pursue any of its remedies under this Contract, at law, or in equity.

## **16. FORCE MAJEURE**

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this Contract, unless the parties mutually agree that the obligation is excused because of the condition.

## **17. WAIVER OF BREACH**

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

## **18. CONFORMANCE WITH CONTRACT**

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the Contract shall be granted without the State's prior written consent. Product or services provided that do not conform to the Contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

## **19. LIAISONS AND SERVICE OF NOTICES**

**19.1 Contract Liaisons.** All project management and coordination on State's behalf must be through a single point of contact designated as State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this Contract must be coordinated between State's liaison and Contractor's liaison.

Gayle Butler is State's liaison  
350 Conley Road  
Deer Lodge, MT 59722  
(406) 415-6373  
[gbutler@mt.gov](mailto:gbutler@mt.gov)

Erin D is the Contractor's liaison  
548 Market St.  
PMB 70892  
San Francisco, California 94104  
[erin.palumbo@thelastmile.org](mailto:erin.palumbo@thelastmile.org)

**19.2 Notifications.** State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, email, mail, or facsimile. If notice is provided by personal service, email, or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective on the third business day after mailing.

**19.3 Identification/Substitution of Personnel.** The personnel identified or described in Contractor's proposal shall perform the services provided for State under this Contract. Contractor agrees that any personnel substituted during the term of this Contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. State reserves the right to approve Contractor personnel assigned to work under this Contract and any changes or substitutions to such personnel. State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve Contractor to perform and be responsible for its obligations under this Contract. State reserves the right to require Contractor personnel replacement. If Contractor personnel become unavailable, Contractor shall provide an equally qualified replacement in time to avoid delays to the work plan.

## **20. MEETINGS**

**20.1 Technical or Contractual Problems.** Contractor shall meet with State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the Contract term or to discuss the progress made by Contractor and State in the performance of their respective obligations, at no additional cost to the State. State may request the meetings as problems arise and will be coordinated by State. State shall provide Contractor a minimum of three full working days' notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the Contract.

**20.2 Progress Meetings.** During the term of this Contract, State's Project Manager shall plan and schedule progress meetings with Contractor to discuss Contractor's and State's progress in the performance of their respective obligations. These progress meetings will include State's Project Manager, Contractor's Project Manager, and any other additional personnel involved in the performance of this Contract as required. At each meeting, Contractor shall provide State with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report, which may prevent Contractor from completing any of its obligations or may generate charges in excess of those previously agreed to by the parties. This may include the failure or inadequacy of State to perform its obligation under this Contract. Contractor shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and the steps taken to remedy the same.

**20.3 Failure to Notify.** If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by State, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

**20.4 State's Failure or Delay.** For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of State's failure or delay in discharging any State obligation, State shall review same and determine if such problem or circumstance was in fact the result of such failure or delay.

If State agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby and provide for any additional charges by Contractor. This is Contractor's sole remedy. If State does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

## **21. TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of this term, if the Contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this Contract or particular work under this Contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to State or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this Contract, except for those terms or conditions that do not reasonably apply to such transition assistance. State shall pay Contractor for any resources utilized in performing such transition assistance at the most current Contract rates. If State terminates a project or this Contract for cause, then State may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages State may have sustained as a result of Contractor's breach.

## **22. CHOICE OF LAW AND VENUE**

Montana law governs this Contract. The parties agree that any litigation concerning this bid, proposal, or this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees, except as provided in Section 6, Defense, Indemnification/Hold Harmless.

## **23. TAX EXEMPTION**

State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act 42 U.S.C. § 18001 et seq.

## **24. PERSONAL PROPERTY TAX**

All personal property taxes will be paid by Contractor.

## **25. AUTHORITY**

This Contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

## **26. SEVERABILITY**

A declaration by any court or any other binding legal source that any provision of the Contract is illegal and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually and materially dependent.

## **27. PARAGRAPH HEADINGS**

The captions and headings set forth in this Contract are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

**28. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT**

**28.1 Contract.** This Contract consists of **(13)** numbered pages, any Attachments as required, Solicitation # COR-IFB-2022-0379NH as amended, and Contractor's response, as amended. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

**28.2 Entire Agreement.** These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

**29. WAIVER**

State's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

Remainder of this page intentionally left blank.

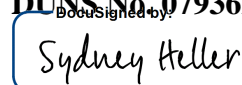
**30. EXECUTION**

The parties through their authorized agents have executed this Contract on the dates set out below.

**STATE OF MONTANA**  
**Montana Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

DocuSigned by:  
  
 050F0626F7E44A1...  
 Gayle Butler, Administrator (Date)  
 Montana Correctional Enterprises

**Turn 2U, Inc. dba The Last Mile**  
**548 Market St.**  
**PMB 70892**  
**San Francisco, California 94104**  
**DUNS No. 079362274**

DocuSigned by:  
  
 0334D411B244481...  
 Sydney Heller, Executive Director (Date)

Approved as to Form:


DocuSigned by:  
  
 B31066F651454E1...  
 Nolan Harris, Contracts Officer (Date)  
 State Procurement Bureau

Approved as to Legal Content:

DocuSigned by:  
  
 41E015402B274F4...  
 Molenda McCarty, Legal Counsel (Date)  
 Legal Services Bureau

Chief Information Officer Approval:

Contractor is notified that, under the provisions of 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.

DocuSigned by:  
  
 B999BB1A7DDC479...  
 Kevin Gilbertson, Chief Information Officer (Date)  
 Department of Administration  
 ITPR# 6644\_202110714490